

Senate Bill 592

By: Senators Grant of the 25th, Hill of the 4th, Kemp of the 46th and Harp of the 29th

**AS PASSED**

**AN ACT**

To amend Article 4 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to the disposition of surplus property, so as to provide for the sale of certain property by fixed price; to permit the negotiated sale of surplus property to charitable institutions; to change certain provisions relating to the disposition of surplus property by the Department of Administrative Services; to provide for penalties; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Article 4 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to disposition of surplus property, is amended by striking Code Section 50-5-141, relating to the transfer, sale, trade, or destruction of property, in its entirety and inserting a new Code Section 50-5-141 to read as follows:

50-5-141.

(a) The Department of Administrative Services is authorized and it shall be its duty to dispose of surplus property by one of the following means:

- (1) Transfer to other state agencies;
- (2) Sell to the highest responsible bidder for cash;
- (3) Sell by fixed price; provided, however, that surplus property sold by fixed price shall have been originally purchased by the state for an amount of \$5,000.00 or less;
- (4) Trade in such surplus property on the purchase of new equipment if the Department of Administrative Services shall determine that such action is for the best interest of the state; or
- (5) Where the Department of Administrative Services shall determine that the surplus property has no value or that the cost of maintaining and selling the surplus property exceeds the anticipated proceeds from the sell of the surplus property, by destruction and disposal and order of removal from the inventory of the department, institution, or agency with such action noted thereon.

(b) No employee of the Department of Administrative Services or such employee's immediate family member shall purchase surplus property sold by fixed price or negotiated sale; nor shall any person purchase surplus property by fixed price or negotiated sale for the direct or indirect benefit of any such employee or employee's immediate family member.

## **SECTION 2.**

Said article is further amended by striking Code Section 50-5-142, relating to the commissioner's authority to promulgate rules and regulations, in its entirety and inserting a new Code Section 50-5-142 to read as follows:

50-5-142.

The commissioner of administrative services shall promulgate such rules and regulations as may be required to carry out Code Sections 50-5-140, 50-5-141, 50-5-143, 50-5-144, and 50-5-146 and shall establish procedures for the disposition of surplus property, including the manner whereby the sale of surplus property shall be advertised and competitive bids for the purchase thereof shall be secured.

## **SECTION 3.**

Said article is further amended by striking Code Section 50-5-144, relating to the transfer of surplus property to private health or educational institutions or public corporations by negotiated sale, in its entirety and inserting a new Code Section 50-5-144 to read as follows:

50-5-144.

(a) As used in this Code section, the term:

(1) 'Charitable institution' means any nonprofit tax-exempt person, firm, or corporation providing services within this state.

(2) 'Public corporation' means any public authority or other public corporation created by or pursuant to state law.

(b) In addition to any other authority provided by Code Sections 50-5-140 through 50-5-143, this Code section, and Code Section 50-5-146, the Department of Administrative Services shall be authorized to dispose of surplus property, including surplus property subject to paragraph (7) of Code Section 50-5-51, by the transfer of the property to any charitable institution or public corporation through a negotiated sale if the department determines that such sale would be in the best interests of the state, and, under the

circumstances, the negotiated sales price would constitute a reasonable consideration for the property.

(c) When any surplus property is sold to a charitable institution or to a public corporation pursuant to subsection (b) of this Code section, the sale shall be subject to the following conditions:

- (1) The property shall not be resold by the purchaser within one year after the sale without the written consent of the Department of Administrative Services; and
- (2) The Department of Administrative Services shall have the right and obligation to supervise the resale of the property at public outcry to the highest responsible bidder if the resale is within one year after the sale and, if the resale price exceeds the original negotiated sales price, the amount of the excess shall be paid to the Department of Administrative Services.

#### **SECTION 4.**

Said article is further amended by striking Code Section 50-5-146, relating to penalties, in its entirety and inserting a new Code Section 50-5-146 to read as follows:

50-5-146.

Any person who causes state property having a value of less than \$200.00 to be disposed of in violation of this article shall be guilty of a misdemeanor. If such property has a value of \$200.00 or more, he or she shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one year nor more than five years.

#### **SECTION 5.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 6.**

All laws and parts of laws in conflict with this Act are repealed.